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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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AKERMAN SENTERFITT			DANIEL JR, WILLIE J	
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2686

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/919,391

Applicant(s)

FITZPATRICK ET AL.

Examiner

Willie J. Daniel, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This action is in response to applicant's amendment filed on 20 June 2005. **Claims 1-19** are now pending in the present application.

### *Claim Rejections - 35 USC § 112*

2. The 112 rejection to claim 19 is withdrawn, as the proposed claim 19 correction is approved.

### *Double Patenting*

3. Applicant is advised that should **claim 17** be found allowable, **claim 18** will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Regarding applicant's argument of claims 17-18 on pg. 8, 4<sup>th</sup> ¶, "...these two claims are not duplicates...", the Examiner respectfully disagrees. Claim 17 recites "...information includes a time and **at least two** of a date, day, and location..." in which at a minimum includes time and 2 of 3 elements of the set. When claim 17 is evaluated from the maximum aspect, claim 17 then includes time and 3 of 3 elements of the set. Claim 18 recites "...information includes a time, a date, day and location...". At the maximum aspect of claim 17, claim 18 is a substantial duplicate or so close in content to the limitations of claim 17. Therefore, the duplicate claim objection is hereby maintained.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 16-18 and 20** are rejected under 35 U.S.C. 102(b) as being anticipated by **Rignell et al.** (hereinafter Rignell) (**US 5,818,920**).

Regarding **Claim 16**, Rignell discloses a method for providing subscriber which reads on the claimed “call recipient” local information (see abstract; col. 3, lines 28-50; Figs. 1-3) comprising the steps of:

identifying an attempt to establish a call which reads on the claimed “telephone call” between an originating terminal (A) which reads on the claimed “source” and a receiving handheld terminal (C) which reads on the claimed “device” (see col. 5, lines 5-21);

responsive to said identifying step, determining information local to said receiving handheld device (C) (see col. 5, lines 15-19; col. 4, lines 60-64; Fig. 3), where the local information is the time and time zone of the receiving handheld device; and

providing said determined local information to said originating call source (A), said originating call source (A) deciding whether to complete said telephone call or terminate said telephone call based upon said determined local information, wherein the local information includes a time and at least one of a date, day and location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (C) is located (see col. 5, lines 15-19; col. 4, lines

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60-64; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the calling subscriber can confirm or decide whether to complete the connection or discontinue.

Regarding **Claim 17**, Rignell discloses the method of claim 16, wherein the local information includes a time and at least two of a date, day, and location (e.g., Time Zone 2 or geographic area) where said receiving device is located (see col. 5, lines 15-19; col. 2, lines 28-31; col. 6, lines 64-67; col. 4, lines 60-64; Figs. 1-4), where the local information includes the local time of day and the time zone that the receiving handheld device is located in which the date would be inherent which is due to the location and/or time zone of the calling device relative to location of receiving device based on the 24 longitudinal divisions (i.e., time zones) for time keeping of the earth.

Regarding **Claim 18**, Rignell discloses the method of claim 16, wherein the local information includes a time, a date, a day, and location (e.g., Time Zone 2 or geographic area) where said receiving device is located (see col. 5, lines 15-19; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the local information includes the local time of day and the time zone that the receiving handheld device is located in which the date would be inherent which is due to the location and/or time zone of the calling device relative to location of receiving device based on the 24 longitudinal divisions (i.e., time zones) for time keeping of the earth.

Regarding **Claim 20**, Rignell discloses the method of claim 16, the local information includes a location (e.g., Time Zone 2 or geographic area) where said receiving device is located (see col. 5, lines 15-19; col. 2, lines 28-31; col. 6, lines 64-67; col. 7, lines 11-18; Figs. 1-4), where the calling device is informed of the time zone of a receiving device. Time

zone is the geographic location or region the receiving device is located in relative to the location of the calling device which is based on the 24 longitudinal divisions (i.e., time zones) for time keeping of the earth.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Rignell et al.** (hereinafter Rignell) (US 5,818,920) in view of **Labban** (US 6,574,486 B1).

Regarding **Claim 1**, Rignell discloses a method for providing call which reads on the claimed "message" recipient local information (see abstract; col. 3, lines 28-50; Figs. 1-3) comprising the steps of:

identifying an attempt to send a mobile call which reads on the claimed "message" from an originating terminal (A) which reads on the claimed "source" to a receiving handheld terminal (C) which reads on the claimed "device" (see col. 5, lines 5-21);

responsive to said identifying step, determining information local to said receiving handheld device (C) (see col. 5, lines 15-19; Fig. 3), where the local information is the time and time zone of the receiving handheld device; and,

providing said determined local information to said originating source (A), said originating source (A) deciding whether to send said mobile message (call) or terminate said

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mobile message (call) based upon said determined local information, wherein the local information comprises a location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (C) is located (see col. 5, lines 15-19; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the calling subscriber can confirm or decide whether to complete the connection or discontinue. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

In the same field of endeavor, Labban discloses the feature a text message which reads on the claimed "non-voice message" (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 "ref. 426", 6 "ref. 624"), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 2**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 1), in addition Rignell further discloses the method according to claim 1, wherein said local information further comprises information selected from the group consisting of a time, date, and day where said receiving handheld device (C) is located (see col. 5, lines 15-19; col. 4, lines 60-64; Figs. 1-4), where the local information is the local time of day and the time zone that the receiving handheld device is located.

Regarding **Claim 3**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 4**, Rignell discloses a method for providing message recipient local information (see abstract; col. 7, lines 6-25; Figs. 2-3) comprising the steps of:

initiating a mobile message (call) between an originating source (A) and a receiving handheld device (B) (see col. 7, lines 6-25; Fig. 3);

receiving local information from a service provider which services said receiving handheld device (B) (see col. 7, lines 15-18; col. 4, lines 60-64), where the local information is provided in which the service provider would be obvious; and

processing said mobile message (call) based on said received local information, wherein the local information comprises a location (e.g., Time Zone 2) where the receiving handheld



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device (C) is located (see col. 7, lines 15-25; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the call would be processed by the calling subscriber according to the local information of the called subscriber. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed “non-voice message” (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 5**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 4), in addition Rignell further discloses the method according to claim 4, wherein said local information further comprises information selected from the group consisting of a time, date, and day where said receiving handheld device (B) is located (see col. 7, lines 15-18; col. 5, lines 15-19; col. 4, lines 60-64; Figs. 1-4), where the local information is the local time of day and the time zone that the receiving handheld device is located.

Regarding **Claim 6**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein

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said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 7**, Rignell discloses the method according to 4, wherein said processing step comprises, selecting an action from the group of actions consisting of connect which reads on the claimed “sending” said mobile message (call) to said receiving handheld device (B), sending said mobile message (call) to a mail box, and not sending said mobile message (call) (see col. 7, line 18-25; col. 8, lines 23-25; Fig. 3), where the calling subscriber can confirm the call by deciding to connect or terminate or be connected to an answering machine or answering service in which the mail box would be obvious. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed “non-voice message” (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines

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48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 8**, Rignell discloses a system for providing location-based recipient information (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 6, line 60 - col. 7, line 25; Figs. 1-4) comprising:

a wireless service provider for providing wireless telephony services to a network of handheld devices (see col. 6, line 60 - col. 7, line 25; Fig. 3);

a time source for electronically reporting information local to each of said handheld devices (A or B) (see col. 6, line 60 - col. 7, line 5; col. 7, lines 11-15; col. 8, lines 45-47), where the base station, the base station controller, real-time clock, or PSTN is the time source that provides the time; and,

a notification system configured to provide local information acquired from said time source in response to an attempt to send a mobile message from an originating source to a handheld device in said network, said notification system being further configured to provide said local information prior to sending said mobile message (call), said notification system being yet further configured to delay sending said mobile message (call) until a decision to affirmatively send said mobile message (call) is made at said originating source (A) based on said provided local information, wherein the local information comprises a location (e.g.,

Time Zone 2 or geographic area) where the receiving handheld device (C) is located (see col. 7, lines 6-25; col. 5, lines 15-19; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Fig. 3), where the local information is provided prior to connecting (sending) the call in which the system waits until the subscriber confirms to connection (sending). Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed "non-voice message" (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 "ref. 426", 6 "ref. 624"), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 9**, Rignell discloses a machine readable storage having stored thereon, a computer program having a plurality of code sections, said code sections executable by a machine for causing the machine to perform (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 7, line 6-25; Figs. 1-3) the steps of:

identifying an attempt to send a mobile message (call) from an originating source (A) to a receiving handheld device (C) (see col. 5, lines 5-21);

responsive to said identifying step, determining information local to said receiving handheld device (C) (see col. 5, lines 15-19; Fig. 3), where the local information is the time and time zone of the receiving handheld device; and,

providing said determined local information to said originating source (A), said originating source (A) deciding whether to send said mobile message (call) or terminate said mobile message based upon said determined local information, wherein the local information comprises a location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (C) is located (see col. 5, lines 15-19; col. 7, lines 6-25; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Fig. 3), where the calling subscriber can confirm or decide whether to complete the connection or discontinue. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed “non-voice message” (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 10**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 9), in addition Rignell further discloses the machine

readable storage according to claim 9, wherein said local information further comprises information selected from the group consisting of a time, date, and day where said receiving handheld device (C) is located (see col. 5, lines 15-19; col. 7, lines 15-18; Figs. 1-4), where the local information is the local time of day and the time zone that the receiving handheld device is located.

Regarding **Claim 11**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 12**, Rignell discloses a machine readable storage having stored thereon, a computer program having a plurality of code sections, said code sections executable by a machine for causing the machine to perform (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 7, lines 6-25; Figs. 1-3) the steps of:

initiating a mobile message (call) between an originating source (A) and a receiving handheld device (B) (see col. 7, lines 6-25; Fig. 3);

receiving local information from a service provider which services said receiving handheld device (B) (see col. 7, lines 15-18; col. 4, lines 60-64), where the local information is provided in which the service provider would be obvious; and

processing said mobile message (call) based on said received local information, wherein the local information comprises a location (e.g., Time Zone 2 or geographic area) where the receiving handheld device (B) is located (see col. 7, lines 6-25; col. 5, lines 15-19; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Fig. 3), where the call would be processed by the calling subscriber according to the local information of the called subscriber. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed "non-voice message" (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 "ref. 426", 6 "ref. 624"), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 13**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 12), in addition Rignell further discloses the machine

readable storage according to claim 12, wherein said local information further comprises information selected from the group consisting of a time, date, and day where said receiving handheld device (B) is located (see col. 7, lines 15-18; col. 5, lines 15-19; col. 4, lines 60-64; Figs. 1-4), where the local information is the local time of day and the time zone that the receiving handheld device is located.

Regarding **Claim 14**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

Regarding **Claim 15**, Rignell discloses the machine readable storage according to 12, wherein said processing step comprises, selecting an action from the group of actions consisting of sending said mobile message (call) to said receiving handheld device (B), sending said mobile message (call) to a mail box, and not sending said mobile message (call)



(see col. 7, lines 18-25; col. 8, lines 23-25), where the calling subscriber can confirm the call by deciding to connect or terminate or be connected to an answering machine or answering service in which the mail box would be obvious. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the feature a non-voice message was well known in the art, as taught by Labban.

Labban further discloses the feature a text message which reads on the claimed "non-voice message" (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 "ref. 426", 6 "ref. 624"), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26).

**Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Rignell et al.** (hereinafter Rignell) (US 5,818,920) in view of **Moon et al.** (hereinafter Moon) (US 6,075,992).

Regarding **Claim 19**, Rignell discloses the step of when the originating call source decides to terminate said telephone call, deferring said telephone call (see col. 8, lines 23-25; col. 7, lines 18-25), where the calling subscriber can deferred such as being directed to an answering machine. Rignell fails to disclose having the feature which results in placing the call at an appropriate time as defined by the originating call source. However, the examiner

maintains that the feature which results in placing the call at an appropriate time as defined by the originating call source was well known in the art, as taught by Moon.

In the same field of endeavor, Moon discloses the feature which results in placing the call at an appropriate time as defined by the originating call source (see col. 5, line 18 - col. 6, line 7; col. 7, lines 4-9; Figs. 1, 7), where the portable intelligent communications device (10) can automatically place a call by scheduling the call according to time ranges.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Moon to have the feature which results in placing the call at an appropriate time as defined by the originating call source, in order to automatically initiate a call to a recipient depending on the local time of such recipient, as taught by (see col. 1, lines 63-64; col. 2, lines 9-12).

*Response to Arguments*

6. Applicant's arguments filed 20 June 2005 have been fully considered but they are not persuasive.

Examiner respectfully disagrees with applicant's arguments as the applied reference(s) provide more than adequate support and to further clarify (see the above claims and comments in this section).

7. Regarding applicant's argument of claims 17-18 on pg. 8, 4<sup>th</sup> ¶, "...these two claims are not duplicates...", the Examiner respectfully disagrees. Claim 17 recites "...information includes a time and **at least two** of a date, day, and location..." in which at a minimum includes time and 2 of 3 elements of the set. When claim 17 is evaluated from the maximum aspect, claim 17 then includes time and 3 of 3 elements of the set. Claim 18 recites "...information includes a time, a date, day and location...". At the maximum aspect of claim 17, claim 18 is a substantial duplicate or so close in content to the limitations of claim 17. Therefore, the duplicate claim objection is hereby maintained.
8. Regarding applicant's argument of claim 16 on pg. 9, 5<sup>th</sup> ¶, "Rignell fails to teach that a date, day, and/or location of where a handheld device is located...", the Examiner respectfully disagrees. Rignell teaches that a date, day, and/or location of where a handheld is located (see col. 5, lines 15-19; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the mobile terminal A calls mobile terminal B (see col. 7, lines 6-8) the information about the local time of the time zone (e.g., location) of mobile terminal B is forwarded to mobile terminal A (see col. 7, lines 15-18). The information of the time relates to a particular day (i.e., day of the week) (see col. 7, lines 46-49), where the called device or

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party can schedule a time range of a day(s) for accepting/blocking calls in which a date would be inherent because of the schedule as typically associated with a calendar since the calling device or party would be provided the information (see col. 7, lines 15-25, 28-42, 54-64). Time zone (see col. 7, lines 10-11; Fig. 3) is the geographic location or region the called device is located in relative to the location of the calling device that is based on the 24 longitudinal divisions (i.e., time zones) for time keeping of the earth.

9. Furthermore, independent claim 16 on pg. 6, lines 9-11 recites the limitation "...information includes a time and at least one of a date, day and location...", in which the limitation includes **alternative language**. This limitation is satisfied by time and **at least one** of a date, day, and location which has been more than adequately rejected by the applied reference, Rignell ('920). Also, dependent claims 17-18 include therein further limitations that have been kindly considered and rejected by the Examiner. Since the applicant chose alternative language in the independent claim 16, the Examiner does not have to address the further limitations of dependent claims 17-18.
10. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
11. Regarding applicant's arguments of claims 1-15 and 19, the claims have been rejected for the same reasons as set forth above.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. **Dunn et al. (US 6,138,008)** discloses a *Wireless Telephone Menu System*.
- b. **Seppo (UK 2,284,965)** discloses *Automatic Time of Day Calculation for a Radio Telephone, Fax Machine, or Computer*.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WJD,JR  
12 October 2005

*Marsha D Banks-Harold*

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